

Senate Study Bill 1146 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON FRAISE)

A BILL FOR

1 An Act restricting claims involving mineral rights underlying
2 land owned by another person.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 614.24A Reservation or granting of
2 interests in minerals in or on land — preservation.

3 1. No action based upon any claim arising or existing
4 by reason of the provisions of any instrument creating any
5 interest in minerals shall be maintained in any court in this
6 state to recover or establish any interest in or claim to real
7 estate, legal or equitable, against the holder of record title
8 to such real estate after twenty-one years from the execution
9 of such instrument unless the claimant shall, personally, or by
10 the claimant's attorney or agent, or if the claimant is a minor
11 or under legal disability, by the claimant's guardian, trustee,
12 or either parent or next friend, file a verified claim for such
13 interest with the recorder of the county where the real estate
14 is located within the twenty-one-year period. In the event
15 that such instrument was executed more than twenty years prior
16 to July 1, 2011, then such claim may be filed on or before June
17 30, 2014.

18 2. The following definitions apply for purposes of this
19 section:

20 a. "*Interest in minerals*" means a perpetual interest in
21 real estate which grants ownership of one or more minerals
22 underlying the real estate to a person other than the person
23 who owns the surface rights in and to the real estate.
24 "*Interest in minerals*" does not include a lease of real estate
25 which allows the tenant to remove minerals from the real
26 estate.

27 b. "*Mineral*" means the same as defined in section 556.1, and
28 also includes any other substance defined as a mineral by a law
29 of this state, except coal.

30 c. "*Surface rights*" means the right of one or more persons
31 to occupy the surface of the real estate.

32 3. A claim to preserve an interest in minerals shall do all
33 of the following:

34 a. Set forth the legal description of the real estate from
35 which such interest was severed, the nature of the interest,

1 the time and manner in which the interest was created, the name
2 and address of the person making the claim, and each present
3 owner of the interest.

4 *b.* Verify that the claim has been delivered by certified
5 mail or personal delivery to the record owner of the surface
6 rights to the real estate from which such interest was severed,
7 as set forth in the records maintained by the assessor of the
8 county in which the real estate is located.

9 4. For the purposes of this section, a claimant may be any
10 person or persons claiming an interest in minerals, whether the
11 interest is a present interest or an interest which would come
12 into existence if the happening or contingency provided in the
13 instrument creating the interest were to happen at once. A
14 claimant may also be any member of a class of persons entitled
15 to claim such interest.

16 5. Nothing in this section shall do any of the following:

17 *a.* Revive or extinguish an interest in coal, including but
18 not limited to an interest provided in chapter 557C.

19 *b.* Impair the validity of an environmental covenant
20 established pursuant to chapter 455I.

21 *c.* Revive an interest which has expired or been terminated
22 under the terms of the instrument creating the interest.

23 6. The limitations of this section shall not run in respect
24 of any period in which the interest in minerals is separately
25 assessed for taxation as against the person who has paid the
26 taxes so assessed.

27 Sec. 2. Section 614.25, Code 2011, is amended to read as
28 follows:

29 **614.25 Effect of filing claim.**

30 The filing of ~~such~~ a claim pursuant to section 614.24 or
31 614.24A shall extend for a further period of twenty-one years
32 the time within which such action may be brought by any person
33 entitled thereto, and successive claims for further like
34 extensions may be filed.

35 Sec. 3. Section 614.28, Code 2011, is amended to read as

1 follows:

2 **614.28 Barred claims.**

3 The provisions of sections 614.24 to 614.27, inclusive, or
4 the filing of a claim or claims, hereunder, shall not revive or
5 permit an action to be brought or maintained upon any claim or
6 cause of action which is barred by any other statute. Provided
7 further, that nothing contained in ~~these sections~~ section
8 614.24, 614.25, 614.26, or 614.27 shall affect litigation
9 pending on July 4, 1965, and nothing contained in section
10 614.24A shall affect litigation pending on July 1, 2011.

11 EXPLANATION

12 This bill provides for the reservation of a right to bring a
13 claim in district court involving an interest in one or more
14 minerals underlying the surface of real estate which another
15 person has a right to occupy. The bill does not address rights
16 to coal, which are subject to Code chapter 557C.

17 The bill applies when an instrument has been executed
18 creating an interest in one or more minerals. In order to
19 maintain a legal or equitable action against the record title
20 holder of the real estate after 21 years from the instrument's
21 execution, a claim must be filed with the recorder for
22 the county within that period. An exception applies to an
23 instrument executed more than 21 years prior to July 1, 2011.
24 In that case, the claim may be filed on or before June 30,
25 2014. The bill provides that additional claims may be filed
26 for additional 21-year periods.

27 The bill expressly states that it does not affect an interest
28 in coal, impair the validity of an environmental covenant (Code
29 chapter 455I), or revive an interest which has expired or been
30 terminated under the terms of the instrument.

31 The bill does not affect litigation pending on the effective
32 date of the bill.